



1995 SENATE BILL 464

December 20, 1995 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Education and Financial Institutions.

1 **AN ACT to amend** 221.04 (6) and 223.03 (7) of the statutes; **relating to:** removal
2 of certain references to lunatics in the statutes regarding bank trust powers
3 (suggested as remedial legislation by the office of commissioner of banking).

Analysis by the Legislative Reference Bureau

Under current law, a bank that exercises trust powers may act as a guardian of an estate. Current law also specifically authorizes a bank that exercises trust powers to act as "a committee of estates of lunatics". This bill removes this specific authorization because it is obsolete and unnecessary in light of a bank's ability to exercise trust powers to act as guardian of an estate.

For further information see the NOTES provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the office of commissioner of banking and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

4 **SECTION 1.** 221.04 (6) of the statutes is amended to read:
5 221.04 (6) TRUST POWERS. When thereto authorized by the commissioner, and
6 if and after it shall have in good faith complied with all requirements of law and
7 fulfilled all the conditions precedent to the exercise of such powers imposed by law

SECTION 1

1 upon trust company banks, any state bank may act as trustee, executor,
2 administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver,
3 ~~committee of estates of lunatics~~, and in any other fiduciary capacity in which trust
4 company banks are permitted to act. Any state bank so authorized by the
5 commissioner shall comply with s. 223.02 before exercising such authority and shall
6 be thereupon entitled to the same exemption as to making and filing any oath or
7 giving any bond or security as is conferred on trust company banks by s. 223.03 (8).
8 With its application for permission to exercise fiduciary powers under this
9 subsection, a state bank shall submit to the commissioner a fee of \$1,000. In passing
10 upon application for permission to exercise such fiduciary powers, the commissioner
11 may take into consideration the amount of capital and surplus of the applying bank,
12 whether or not such capital and surplus is sufficient under the circumstances, the
13 needs of the community to be served, and any other facts and circumstances that
14 seem to him material, and may grant or refuse the application accordingly; provided,
15 that no special authorization shall be issued to any such bank having a capital less
16 than the capital from time to time required by law of a national bank exercising
17 fiduciary power in the same place. If satisfied that such bank has in good faith
18 complied with all the requirements of law and fulfilled all the conditions precedent
19 to the exercise of such powers imposed by law, the commissioner may, within 6
20 months after the date on which the application of such bank was filed, issue under
21 his or her hand and official seal, in triplicate, a special authorization certificate to
22 such bank. Such certificate shall state that the bank named therein has complied
23 with the provisions of law applicable to banks exercising fiduciary powers, and is
24 authorized to exercise the same. One of the triplicate special authorization
25 certificates shall be transmitted by the commissioner to the bank thereby authorized

1 to exercise fiduciary powers; another shall be filed and recorded in the office of the
2 commissioner, and the 3rd shall be recorded at the expense of such bank in the office
3 of the register of deeds of the county in which such bank is located. In the conduct
4 of its business under or in connection with such authorization to exercise fiduciary
5 powers every bank so authorized shall comply with and be governed by all the
6 provisions of law from time to time applicable to individuals acting in a similar
7 capacity.

NOTE: This SECTION deletes banking law language, created in 1921, relating to
“lunatics”, a word which is no longer used as a descriptive term in medical or legal
materials.

8 **SECTION 2.** 223.03 (7) of the statutes is amended to read:

9 223.03 (7) And any such corporation may act generally as agent or attorney for
10 the transaction of business, the management of estates, the collection of rents,
11 interests, dividends, mortgages, bonds, bills, notes, and other securities, or moneys,
12 and also as agent for the purpose of issuing, negotiating, registering, transferring,
13 or countersigning certificates of stock, bonds, or other obligations of any corporation,
14 association, or municipality, and manage any sinking fund or debt service fund
15 therefor, on such terms as may be agreed upon; and may also accept and execute the
16 offices of executor, administrator, trustee, receiver, assignee, or guardian of any
17 minor or insane or incompetent person, ~~lunatic~~, or any person subject to
18 guardianship; and in all cases in which application shall be made to any court for the
19 appointment of any person in any such capacity, it shall be lawful to appoint such
20 corporation, with its consent, to hold such office or offices.

NOTE: This SECTION deletes banking law language, created in 1921, relating to
“lunatics”, a word which is no longer used as a descriptive term in medical or legal
materials.

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(END)